

Patent

TO:	
COMMISSIONER OF PATENTS AND TRADEMARKS (USPTO) P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OF DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

In compliance with 35 U.S.C. 290 and/or 15 U.S.C. 1116 you are hereby advised
 that a court action has been filed on the following patent(s)/trademark(s) in the U.S. District Court:

DOCKET NO.	DATE FILED:	UNITED STATES DISTRICT COURT,
09 C 3895	6/26/09	NORTHERN DISTRICT OF ILLINOIS,
		EASTERN DIVISION
Plaintiff(s):	Defendant(s):	
Chicago Mercantile Exchange Inc, et al.,	Garber	
PATENT NUMBER	DATE OF PATENT	HOLDER OF PATENT
5,963,923	10/5/99	Garber

In the above-entitled case, the following trademarks(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
TRADEMARK NUMBER	DATE OF TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1.			
2.			
3.			

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT See Attachment.		
CLERK - MICHAEL W. DOBBINS	DEPUTY CLERK:	DATE:
	/s/ Sheila Moore	8/15/11

United States District Court, Northern District of Illinois

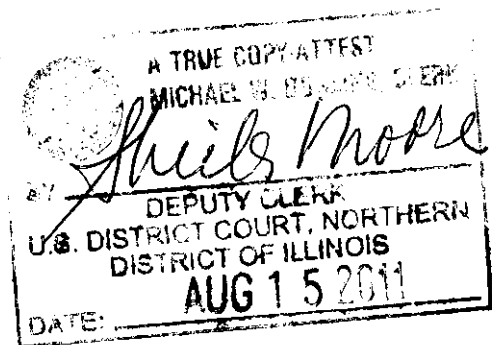
ACE

Name of Assigned Judge or Magistrate Judge	Ruben Castillo	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	09 C 3895	DATE	6/8/2011
CASE TITLE	Chicago Mercantile Exchange, Inc., et al. Vs. Technology Research Group, LLC		

DOCKET ENTRY TEXT

Enter Order. This case is hereby dismissed without prejudice, with full leave to reinstate once all reexamination proceedings have been concluded. The trial date of June 20, 2011 and all other litigation dates are hereby vacated. The parties are to exhaust all remaining settlement possibilities in light of the Court's prior rulings and any further developments before the filing of any reinstatement motion.

Docketing to mail notices.



Courtroom Deputy Initials:	RO
----------------------------	----

ae

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**CHICAGO MERCANTILE EXCHANGE, INC.
and BOARD OF TRADE OF THE
CITY OF CHICAGO, INC.,**

Plaintiffs/Counterclaim Defendants,

v.

TECHNOLOGY RESEARCH GROUP, LLC,

Defendant/Counterclaim Plaintiff,

v.

CME GROUP, INC.,

Counterclaim Defendant.

No. 09 C 3895

Judge Ruben Castillo

ORDER

In an order issued on May 5, 2011, the United States Patent and Trademark Office ("PTO") granted an *ex parte* reexamination of U.S. Patent No. 5,963,923 (the "'923 patent") which is the subject of this lawsuit. The PTO specifically found substantial new questions of patentability affecting all 28 claims of the '923 patent on multiple independent grounds. Once this Court learned of the PTO's decision to grant a reexamination, we raised the possibility of a stay, which CME now seeks. After raising this possibility, the Court gave the parties an opportunity to brief this issue.

After a careful review of the submissions provided by CME and TRG, the Court concludes that there is a significant probability that the PTO may invalidate the '923 patent or materially decrease its scope during the course of the pending reexamination.

patent or materially decrease its scope during the course of the pending reexamination. Therefore, a stay of this litigation may avoid a potentially unnecessary jury trial, simplify any remaining issues for trial, and conserve judicial and jury resources while providing the Court with the benefit of the PTO's considerable expertise. Indeed, as the Federal Circuit has explained, the PTO's reexamination procedure is intended "to eliminate trial of [an] issue (when the claim is canceled) or to facilitate trial of that issue by providing the district court with the expert view of the PTO (when a claim survives the reexamination proceeding)." *See Gould v. Control Laser Corp.*, 705 F.2d 1340, 1342 (Fed. Cir. 1983); *accord JAB Distribs., LLC v. London Luxury, LLC*, No. 09 C 5831, 2010 WL 1882010, at *12 (N.D. Ill. May 11, 2010). Accordingly, this Court stays all proceedings in this case pending conclusion of the PTO's reexamination of the '923 patent and all appeals. The Court urges the PTO to give its utmost priority to its reexamination of the '923 patent.

This case is hereby dismissed without prejudice, with full leave to reinstate once all reexamination proceedings have been concluded. The trial date of June 20, 2011 and all other litigation dates are hereby vacated. Finally, the Court requests the parties to fully exhaust all remaining settlement possibilities in light of the Court's prior rulings and any further developments before the filing of any reinstatement motion.

Entered: 

Judge Ruben Castillo
United States District Court

Dated: June 8, 2011